

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs

Case No: 10-20123
Honorable Victoria A. Roberts

DAVID STONE, ET AL,

Defendants.

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ORDER DENYING MOTION FOR LODGING EXPENSES

Defendants David Brian Stone, Jr., Tina Mae Stone and Kristopher Sickles filed a Motion for Lodging Expenses. (Doc. #604)

While the Court does not oppose the motion, it appears there are no funds available to pay expenses, short of lodging Defendants at community corrections facilities and the Defendants seeking reimbursement for some transportation costs from the U.S. Marshal.

The Criminal Justice Act 18 U.S.C. §3006A, only authorizes payment for defense services, including counsel, expert and investigator services. While it also provides for the payment of other services necessary for adequate representation, §3006A, the Judicial Conference interprets this as not permitting payment for defense lodging expenses.

18 U.S.C. §4285 requires the U.S. Marshal to provide transportation costs for defendant “to the place where his appearance is required” and “furnish [defendant] with

an amount of money for subsistence expenses to [the] destination” not to exceed a certain per diem amount. The Marshal interprets this to require him to give reimbursement for travel from their residences to Court but not for the return trip. They would get mileage for one-way and subsistence for time in actual travel. The Marshal says he is not required to pay lodging expenses, and he declines to do so.

18 U.S.C. §4285 requires Defendants to prove they are incapable of paying their transportation expenses. This is a different demonstration of financial hardship than is required to show indigency for purposes of appointment of counsel.

Subsistence expenses are govern by 5 U.S.C. §5702(a).

The Court's Pretrial Services Department says it can pay for Defendants to be lodged in community corrections facilities under its obligation to ensure that such persons appear in court as required, 18 U.S.C. §3154(4), if they can't afford transportation expenses.

The Department of Justice says it has no funds to pay lodging expenses.

This motion is **DENIED WITHOUT PREJUDICE**. If Defendants can provide authority, the Court will reconsider this motion.

IT IS ORDERED.

/s/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: January 27, 2012

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on January 27, 2012.

s/Linda Vertriest
Deputy Clerk